

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION**

CRIMINAL NO. 1:09CR4

UNITED STATES OF AMERICA

VS.

JULIUS HILLARD

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ORDER

THIS MATTER is before the Court on Defendant's notice of appeal from the Magistrate Judge's order of detention. **Notice of Appeal, filed March 12, 2009; see Order of Detention, filed March 9, 2009.**

On February 5, 2009, Defendant was charged in a one-count indictment of being a felon in possession of multiple firearms, in violation of 18 U.S.C. § 922(g)(1). **See Indictment, at 1.** Following Defendant's arrest, the Government moved for continued detention contending that the charged offense represents a "crime of violence." Defendant appeared with counsel for a detention hearing on March 4, 2009, before the Magistrate Judge. After considering the evidence presented and the arguments of counsel, the Defendant was ordered detained. On March 9,

2009, the Magistrate Judge filed his written order of detention, addressing the statutory factors set forth in 18 U.S.C. § 3142. This appeal follows.

Title 18 U.S.C. § 3145(b), which governs review and appeal of detention orders, provides that "[i]f a person is ordered detained by a magistrate judge, . . . the person may file, with the court having original jurisdiction over the offense, a motion for revocation or amendment of the order." In acting on such a motion, the Court reviews the Magistrate Judge's order *de novo*. ***United States v. Stewart*, 19 F. App'x 46, 47 (4th Cir. 2001)**. Thus, this Court makes "an independent determination of the proper pretrial detention or conditions of release." *Id.*¹

Title 18 U.S.C. § 3142 provides that if, after holding a hearing, the Court finds that "no condition or combination of conditions will reasonably assure the appearance of the person as required and the safety of any other person and the community," the Court shall order the detention of the person pending trial. **18 U.S.C. § 3142(e)**. Below are the statutory factors set forth for consideration:

(1) the nature and circumstances of the offense charged, including whether the offense is a crime of violence, a Federal crime of

¹ The Court has examined the record in this matter including the FTR recording of the detention hearing conducted by the Magistrate Judge.

terrorism, or involves a minor victim or a controlled substance, firearm, explosive, or destructive device;

(2) the weight of the evidence against the person;

(3) the history and characteristics of the person, including –

(A) the person's character, physical and mental condition, family ties, employment, financial resources, length of residence in the community, community ties, past conduct, history relating to drug or alcohol abuse, criminal history, and record concerning appearance at court proceedings; and

(B) whether, at the time of the current offense or arrest, the person was on probation, on parole, or on other release pending trial, sentencing, appeal, or completion of sentence for an offense under Federal, State, or local law; and

(4) the nature and seriousness of the danger to any person or the community that would be posed by the person's release.

18 U.S.C. § 3142(g).

Defendant's notice of appeal is one sentence long and fails to address any of the detailed findings and conclusions entered by the Magistrate Judge. Defendant has neglected to direct the undersigned's attention to any error in the findings of fact or in the legal conclusions set forth in the detailed detention order. The undersigned has conducted a *de novo* review of the order of detention, the FTR recording, and the record, and concludes that such findings of fact and conclusions of law contained

therein are correct under the applicable law. Accordingly, the Court will affirm Defendant's detention pending trial.

IT IS, THEREFORE, ORDERED that the Magistrate Judge's Order of Detention is **AFFIRMED**, and Defendant's appeal of the Order of Detention is **DENIED**.

Signed: March 16, 2009

A handwritten signature in dark ink, appearing to read "L. H. Thornburg", is written over a horizontal line.

Lacy H. Thornburg
United States District Judge

